

196.

T H E

Boyne

L I F E

OF

William Earl of Kilmarnock,

From the Time of his BIRTH to that of
his EXECUTION.

WITH

The Proceedings against him; his Behaviour on, and
after, his Trial; and his *Last Dying Words* at the
Time of his being beheaded on *Tower-Hill, August*
the 18th, 1746.

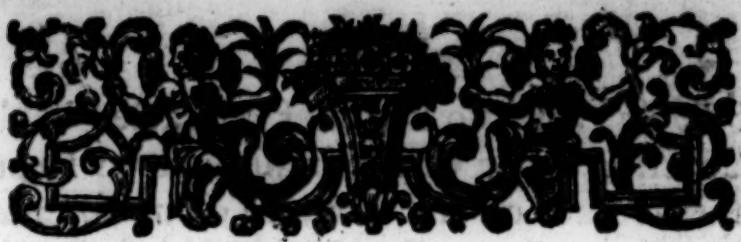


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THE
L I F E
O F

William Earl of Kilmarnock.



WILLIAM BOYDE, Earl of Kilmarnock, and Lord *Boyde*, was descended of a very ancient Family, and takes his Title of Earl from a Royal Borough of that Name in the Shire of *Cunningham*. The first remarkable Man of his Family, and the first who assumed the Surname of *Boyde*, was, as the *Scottish* Genealogists affirm, *Robert*, the Son of *Simon*, third Son of *Allan*, Lord High Chancellor of *Scotland*, in the Year 1111, so in Right of this *Robert*, from whom the Earl of Kilmarnock was lineally descended, this Branch of the Name

of *Boyde* claims to be Chief, and acted in that Capacity, when Chieftainship was in Repute in that Part of the Country; but for more than a Century and a Half, Chiefs in that Part of *Scotland*, neither have, nor claim any other Advantage, but that of Precedency.

Several in the Line of this Family, have distinguished themselves for their Bravery in the Field, as well as their Judgment in the Cabinet. In the Year 1263, Sir *Robert Boyde* gave signal Proofs of his Valour and military Skill in that famous Battle of the *Largs*, fought by the *Scots*, against the *Norwegians*, who attempted to make a Descent upon that Part of the Country; for which he obtained a Grant from the Crown, of several Lands in the Shire of *Cunningham*.

He was succeeded by another Sir *Robert Boyde*, who likewise exercised his Valour in Defence of his King and Country; and received, as a Reward of his Services, the Lands of *Kilmarnock*, from *Robert the First*, then King of *Scotland*.

Another of the Ancestors was styled Sir *Alexander Boyde of Duncow*; this Branch succeeded to the Estate and Honours of *Kilmarnock*.

Robert, the first Lord *Boyde*, was succeeded by his Son *Robert*, who inherited from his Father all those eminent Qualities which gave

gave Lustre to his high Birth ; and in a short Time gained such a Share of Reputation and Popularity, that on the 25th of October, 1466, he was, by Letters Patent, created Regent of *Scotland*, during the Minority of King *James the Third*.

His Son, *Thomas Lord Boyde*, by his Father's Interest as Regent, married the Lady *Mary Stewart*, eldest Sister to King *James III*, who created him Earl of *Arran*. His Father sent him Ambassador to *Denmark*, to treat of a Marriage between the young King, his Brother-in-Law, and *Margaret*, a Daughter of that Crown. He succeeded in his Embassy, espoused the *Danish* Princess in the Name of his Master, and brought her safe to the Firth of *Leith*, where the Queen landed. But his Enemies saw with Envy the high Honours to which he was raised, and in his Absence, prevailed on that Prince, so far as to sacrifice to their Resentment, not only the Earl, but all his Family ; which he being informed of, returned to *Denmark*, without setting Foot on Shore, and carried his Wife the King's Sister with him. In the Year 1470 going to pay a Visit to the Duke of *Burgundy*, he died at *Antwerp*, and was honourably interred at the Expence of that Duke, who erected a magnificent Monument to his Memory. The old Lord

Boyde, his Father, also made his Escape to *England*, where he died in Peace.

The Earl of *Arran*, by his Lady, the Lady *Mary Stewart*, left a Son, named *James*, who died without Issue; and a Daughter, who was first married to *Alexander Forbes*, Ancestor of the Lord *Forbes*, and afterwards to *David Kenedy*, Earl of *Cassils*, by both which Marriages she had Issue. The Lady *Mary*, Widow of the Earl of *Arran*, in the Year 1474, married *James Lord Hamilton*, and in her Right, as descended from her that noble Family of *Hamilton* was next in the Intail of the Crown of *Scotland*, after the Extinction of the House of *Stewart*.

The Earl of *Arran*'s Son *James* dying without Issue, the Line was carried on by Sir *Alexander*, Son of Sir *Alexander Boyde* of *Duncow*, who by King *James the Fourth*, was restored to the Lands of *Kilmarnock*, and the rest of the Estate of his Family.

Robert, a Descendant of the aforesaid Sir *Alexander*, was a Nobleman of an active Genius; and continued firm to the Interest of the unfortunate Queen *Mary*, and never deserted her Cause, till by her imprudent Flight into *England*, she put it out of the Power of her loyal and well-affected Subjects to do her any Service. Then indeed he complied

complied with the Necessity of the Times, and the Humour of the People, in setting her Infant Son upon the Throne, without any Regard to the Mother's Title.

Nothing remarkable passed in the Family, till *William* succeeded to the Estate; who being a Man of Wit and Learning, made a Figure in the Court of King *Charles II*, who created him Earl of *Kilmarnock*; this Gentleman was succeeded, at his Decease, by his eldest Son *William*, and he by his Son *William*, the third Earl of *Kilmarnock*, a Nobleman remarkably zealous in the Parliament of *Scotland*, for the famous Act, called, *The Act of Security*; but was somewhat wavering in his Conduct in relation to the Union; and affected, in the Beginning of that Affair, to join the *Squadrone Volante*; I mean that Party, headed by the Marquess of *Tweeddale*, who were distinguished by that Name, on Account of their pretending to join neither of the Parties, but to cast the Balance between them: But the Earl, finding the Weakness, as well as the selfish Views of that Party, left them, and joined the *Whigs*, and those who promoted the Union; though, like many others who voted for it, he could have wished it had been conducted with more Circumspection, that the Means to bring it about had been less worthy of Censure; and that the whole had put on a

more .

more popular Aspect. He died on the 22d of November, in the Year 1717; leaving Issue, by *Euphene*, his Wife, Daughter to *William Lord Ross*,

William, the Fourth Earl of *Kilmarnock*, the unhappy Subject of this Narration. He was but very young when his Father died; but discovered an early Genius not unworthy the Dignity of his Birth: But his Father's Death leaving him too soon at Liberty to be his own Master, and the Indulgence that is generally given to young Noblemen, added to the natural Sprightliness of his Temper, soon gave him an Aversion to a rigorous Study of Letters, though he had made some Progress in Classical Learning, and had acquired some tolerable Notion of Philosophy and Mathematics; but there was too much of the Volatile in his Disposition, to continue long at Exercises that required Application: He was more happy in acquiring those which are called genteel Accomplishments; such as Riding, Fencing, Dancing, and some Music; in all which he excelled, and was justly esteemed by Men of Taste, a polite Gentleman.

When he came to the Estate, it was pretty much incumbered, and great Part of the old Patrimony alienated: The Earl's Disposition was by no Means turned to improve it by Parsimony; on the contrary, as

his Income was infinitely short of what the Generosity, or rather the Profuseness of his Temper, would prompt him to spend, he found his Affairs daily growing worse, and therefore thought of bettering his Circumstances, by an advantageous Match: To this Purpose, he fixed his Eyes upon Lady *Anne Livingston*, Daughter of *James Earl of Linlithgow* and *Callander*, a young Lady of considerable Fortune, a great Beauty, and every way accomplished to make the greatest Prince happy: The Earl made his Addresses to the Lady, but her Friends, who knew the low Ebb of his Fortune, refused their Consent; however his Lordship's agreeable Person and genteel Address, raised a Friend for him in the generous Lady's Bosom, who is naturally an Enemy to Settlements, and other paternal Cautions: In short, the young Lady married him without her Mother's Consent, who was obliged to submit when there was no Remedy. His Lordship, it is said, proved but ungrateful for the Lady's Generosity, and public Fame strangely belied him, if she had not too much Cause to complain of his Conduct; but as her Ladyship has both a large Share of Spirit, Wit, and good Sense, they lived, if not happily, at least, civilly together.

The Earl's Irregularities, added to the Charge of a Family, at length reduced his Circum-

Circumstances within such narrow Limits, that finding it difficult to support himself with any tolerable Decency, he applied to the *British* Court for a Pension, obtained it, and enjoyed it to the Time of his Entering into the late unnatural Rebellion. Most People look upon this Obligation to the Court, as a Circumstance greatly aggravating his Crime, by mixing Ingratitude with Treason; but some are of Opinion that the Reality of this Aggravation depends upon the Nature of the Pension, and that we must first be satisfy'd whether it was a Royal Bounty or a Ministerial Bribe, before we venture to determine how far he was blameable merely on this Head.

While the Rebellion was in embryo, we find no Footsteps of his Lordship's being in the Plot. On the contrary before the Battle of *Preston-Pans* he bestirr'd himself in Opposition to that Party which he afterwards embraced. Several Authors, who have given us Accounts of this Lord and his Suffering, pretend that it was his Lady that prevailed upon him to take this Step, being, as they say, at *Edinburgh* when the young Pretender entered that City, and charmed her with his Military Appearance, and the Affability with which he treated her and all the Ladies; but this has been contradicted in such a Manner, and at such a Time by his Lordship, that

we

we cannot help giving Credit to what he said.

The Defeat of General *Cope*, at the Battle of *Preston-Pans*, elevated the *Jacobites* to such a Degree, that they esteemed it Madness and Infatuation in every Body, who did not immediately join their Standard: Among those who did, the Earl of *Kilmarnock* was received by the young Chevalier with great Marks of Esteem and Distinction; was declared of his Privy-Council, made Colonel of the Guards, and promoted to the Degree of a General.

How this Lord behaved in his new Capacities of Statesman and General, so foreign from his former Manner of Life is clearly known but to few; but common Report says, that he conducted himself with Courage and Resolution, till the Day of the Battle of *Culloden*, when, foreseeing the Fate of his Party, he absented himself from his Corps, and either confounded by his Fears, or prompted by Despair, (chusing the Hazard of Death, rather than live a Vagabond) he almost unaccountably fell into the Hands of the King's Troops, and rather surrendered himself, than was taken Prisoner.

It deserves Observation, that this Nobleman, when he was but Eleven Years of Age, then Lord *Boyde*, appeared in Arms in Company with the Earl his Father, and was much taken

taken Notice of for his graceful Behaviour. This was in the Rebellion in the Year 1715, when his Father appeared at the Head of above 500 of his own Men, in Defence of his Majesty King *George I*; and happy had it been for his Son, had he exerted himself as strenuously in Behalf of his present Majesty, and not have degenerated from so noble an Example as his Father had left him.

The Earl of *Kilmarnock*, having been committed Prisoner to the Tower of *London*, with the Earl of *Cromertie*, and the Lord *Balmérino*, was, with them brought to his Tryal, on *Monday, July 28. 1746.* and pleaded Guilty to his Indictment. On the *Wednesday* following the Lords Prisoners being brought up again to *Westminster*, the Lord High Steward being seated on the Chair before the Throne, his Grace, addressing himself to the Earl of *Kilmarnock*, acquainted him, as we have already mentioned in p. 23, and 24. that as his Lordship had thought proper to plead Guilty to the Indictment found against him, he had thereby confessed the several Crimes and Treasons with which he was therein charged; and therefore he now desired to know if he had any thing to offer, why Sentence of Death should not be passed upon him.

His Lordship then addressing himself to his Grace the Lord High Steward, and the House, delivered the following Speech.

May it please Your Grace and my Lords,

“ I HAVE already, from a due Sense
 “ of my Folly, and the Heinousness of
 “ those Crimes, with which I stand charg-
 “ ed, acknowledged myself Guilty, and ob-
 “ noxious to those Punishments, which the
 “ Laws of this Land have wisely provided
 “ for Offences of so deep a Dye. Nor would
 “ I have your Lordships to suspect, that what
 “ I am now to offer, is intended to exte-
 “ nuate those Crimes or palliate my Offences;
 “ No, I mean only to address myself to your
 “ Lordships merciful Disposition, to excite
 “ so much Compassion in your Lordships
 “ Breasts as to prevail on your Grace, and
 “ this Honourable House, to intercede with
 “ his Majesty for his Royal Clemency.

“ Though the Situation I am now in,
 “ and the Folly and Rashness which has
 “ exposed me to this Disgrace, cover me
 “ with Confusion, when I think of the un-
 “ fullied Honour of my Ancestors; yet I
 “ cannot help mentioning their unshaken
 “ Fidelity and steady Loyalty to the Crown,
 “ as a proper Subject to excite that Com-
 “ passion, which I am now soliciting: My
 Father

“ Father was an early and steady Friend to
 “ the Revolution, and was very active in
 “ promoting every Measure that tended to
 “ settle and secure the Protestant Succession
 “ in these Kingdoms; and particularly in
 “ that great Event, that gave the finishing
 “ Hand to the Establishment of the present
 “ illustrious Family; I mean the Union of
 “ the Kingdoms: He not only in his pub-
 “ lic Capacity promoted these Events, but
 “ in his Private supported them; and brought
 “ me up, and endeavoured to instill into
 “ my early Years, those Principles of the
 “ Revolution which had always been the
 “ Rule of his Actions.

“ It had been happy for me, my Lords,
 “ that I had always been influenced by his
 “ Precepts, and acted up to his Example:
 “ Yet, I believe, upon the strictest Enquiry
 “ it will appear, that the whole Tenure
 “ of my Life, from my first entering into
 “ the World, till the unhappy Minute in
 “ which I was seduced to join in this Re-
 “ bellion, has been agreeable to my Duty
 “ and Allegiance, and consistent with the
 “ strictest Loyalty.

“ For the Truth of this, I need only
 “ appeal to the Manner in which I have
 “ educated my Children; the Eldest of
 “ whom has the Honour to bear a Com-
 “ mission under his Majesty, and has al-
 “ ways

" ways behaved like a Gentleman. I brought
 " him up in the true Principles of the Revo-
 " lution, and an Abhorrence of Popery and
 " Arbitrary Power: His Behaviour is known
 " to many of this Honourable House, and
 " therefore I take the Liberty to appeal to
 " your Lordships, if it is possible that my
 " Endeavours in his Education should have
 " been attended with such Success, if I had
 " not myself been sincere in those Princi-
 " ples, and an Enemy to those Measures
 " which have now involved me and my Fa-
 " mily in Ruin: Had my Mind at that
 " Time been tainted with Disloyalty and
 " Disaffection, I could not have dissembled
 " so closely from my own Family, but some
 " Tincture of it would have devolved to my
 " Children.

" I have endeavoured, as much as my
 " Capacity or Interest would admit, to be
 " serviceable to the Crown on all Occasi-
 " ons; and even at the breaking out of the
 " Rebellion, I was so far from approving
 " their Measures, or shewing the least Prone-
 " ness to promote *their unnatural Scheme*,
 " that by my Interest in *Kilmarnock* and
 " Places adjacent, I prevented Numbers
 " from joining them, and encouraged the
 " Country, as much as possible, to continue
 " firm to their Allegiance.

" When the unhappy Hour came, that
 " I became a Party, which was not till after
 " the Battle of *Preston-Pans*, I was far from
 " being a Person of any Consequence amongst
 " them ; I neither provided Arms, nor raised
 " a single Man for their Service ; whilst I
 " continued with them, I endeavoured to
 " moderate their Cruelty, and was happily
 " instrumental in saving the Lives of many
 " of his Majesty's loyal Subjects, whom
 " they had taken Prisoners ; I assisted the
 " Sick and Wounded, and did all in my
 " Power to make their Confinement toler-
 " able. I had not been long with them
 " before I saw my Error, and reflected with
 " Horror on the Guilt of swerving from
 " my Allegiance to the best of Sovereigns ;
 " the Dishonour which reflected upon my-
 " self, and the fatal Ruin which it neces-
 " sarily brought upon my Family. I then
 " determined to leave them, and submit my-
 " self to his Majesty's Clemency ; for that
 " purpose I separated myself from my Corps
 " at the Battle of *Culloden*, and stayed to
 " surrender myself a Prisoner, though I had
 " frequent Opportunities, and might have
 " escaped with great Ease, for the Truth of
 " which I appeal to the Person to whom I
 " surrendered.

" It is with the utmost Abhorrence and
 " Detestation, I have seen a Letter from
 " the

“ the *French* Court, presuming to dictate to
 “ a *British* Monarch the Manner he should
 “ deal with his rebellious Subjects; I am
 “ not so much in love with Life, nor so
 “ void of a Sense of Honour, as to expect
 “ it upon such an Intercession; I depend
 “ only upon the merciful Intercession of this
 “ Honourable House, and the innate Cle-
 “ mency of his sacred Majesty.

“ But if, my Lords, if all I have offered
 “ is not a sufficient Motive to your Lordships
 “ to induce you to employ your Interest
 “ with his Majesty, for his Royal Clemency
 “ in my Behalf, I shall lay down my Life
 “ with the utmost Resignation; and my last
 “ Moments shall be employed in fervent
 “ Prayer for the Preservation of the illustri-
 “ ous House of *Hanover*, and the Peace
 “ and Prosperity of *Great-Britain*.”

On *Friday, August 1*, his Lordship being brought down, with the two other Rebel Lords, to *Westminster*, with them received Sentence of Death, after which he had nothing to do but to prepare for the final Execution of it, in which melancholy Business he was assisted by Mr. *Foster*, a Dissenting Minister, but who, by all Parties, is allowed to be a Gentleman of great Learning and Piety.

Mr. Foster tells us, that the first Access he had to the Earl of Kilmarnock, was on Thursday the 7th of August in the Evening, very soon after the Order for his Admittance was brought to General Williamson.

He introduced his serious Discourses with him in this Manner: ---- That being desired to assist him, in his Preparation for the important and awful Scene that was before him, he could not decline, however it might shock his Nature, such a necessary Act of Humanity, that, within the Scope and Limits of his Character, he readily devoted his utmost Services to him: But told him, that it would be absolutely indecent in him, to attempt to meddle with the Civil Part of the Affair between the Government and his Lordship, unless he was properly called upon, and then he would fairly and impartially declare the Truth. That he took it for granted, from his Lordship's sending for him, that he would allow him to deal freely with him, and did not expect to be flattered, nor to have the Malignity of his Crimes disguised or softened: For the Wound of his Mind, occasioned by his public and private Vices, must be probed and searched to the Bottom, before it could be capable of receiving any Remedy; and that if he disapproved of this Method, he thought he could be of no Service to him, and desired

fired to be excused from any farther Attendance.

His Lordship allowed of what Mr. *Foster* said, that it would be unbecoming in him to interfere in Things remote from his Office, and said, he did not expect, nor would ever urge any Thing he thought inconsistent with it; that Simplicity and Freedom of Speech were the only Things that could do him Good; and that it was now no Time to prevaricate with him, and play the Hypocrite with God, before whose Tribunal he might so shortly appear.

Mr. *Foster*, in the next Place, to awaken him thoroughly to a due Sense of his Guilt, persuaded him to look upon himself as a Criminal, whose Sentence of Death was scarce more just, than the Execution of it was inevitable. Self-Preservation, and the Love of Life, it is obvious, are not only strong Principles in human Nature, but to one in my Lord's Circumstances, very insinuating and dangerous Principles: He therefore pressed him earnestly, not to suffer himself to be amused by vain and deluding Hopes, and told him, that by what he could collect from the general Sense of the People, and the Publick Call for Justice, there was no Probability of his obtaining a Reprieve; and that while his Mind was suspended between Hope and Fear, it must be proportionably distracted;

and, of Consequence, unable to recollect and exert its whole Strength and Force in such a Manner, as was necessary to produce in him that deep Contrition and bitter Remorse, for his heinous and aggravated Crimes, and that true Temper of Penitence, which alone could recommend him to the Divine Mercy.

Lord *Kilmarnock* reply'd, That indeed when he consulted his Reason, and argued calmly with himself, he could see no probable Ground on which to expect Mercy ; but still the Hope of Life would often intrude itself : And he was afraid, that this might be attended with another ill Consequence besides what Mr. *Foster* had mentioned : That is, that when the Warrant for his Execution came down, he should not only have the Terror of the Sentence to conflict with, but also the Disappointment of his too fond and flattering Hope. He therefore assured him, that he endeavoured to the utmost of his Power, to repel it ; and that the main bent of his Thoughts was towards the infinitely more momentous Concern of perfecting his Repentance, and preparing for Death and Eternity.

As to the great Crime of his Rebellion, for which he had merited, and justly received the Sentence of Death, he expressed himself without the least Hesitation, or Reserve ;

serve ; and assured the Reverend Gentleman who attended him, That in the Hours of his Confinement and Solitude, he had felt it lye as a severe and heavy Load upon his Soul ; and particularly upon these two Accounts, which were peculiar Aggravations of his Guilt : That he had been a Rebel against his Conscience and inward Principles ; and in Violation of his Oath solemnly and often repeated,

To this Mr. *Foster* replied, That indeed the Breach of his Oath, one of the most Sacred of all religious and social Ties, and acting in direct Repugnance to those *Revolution Principles* which he had formerly professed, and from which in *Sentiment* he never swerved, were high Aggravations of his Wickedness, and should strike his Mind with the deepest Remorse and Horror : But that he ought to extend his Reflections farther, in order to take in the whole Compass of his Guilt, with all its dreadful Circumstances ; that so foul a Crime could not be sincerely repented of without the bitterest Contrition and Humiliation of Soul ; in order to which, a full View of its Malignity, both in its Nature and Consequences, was absolutely necessary. He therefore represented to him, that the Rebellion in which he had rashly engaged, was entirely unprovoked and ungrateful, and, of Consequence, most unjust

and unnatural ; that the King's Right to the Crown was, even in his Lordship's own Opinion, incontestable, and his Government had ever been mild and gracious ; and that, in the same Period of Time, the Subject had never enjoy'd, since the Conquest, that is, for near 700 Years, such a Course of uninterrupted and uncontrovled Liberty, as since the Accession of the present Royal Family to the Throne. He told him farther, that by joining the Rebels, he had not only attacked the personal Rights of the King and his illustrious House, but endeavoured to destroy the national Happiness, and frustrate the Hopes of Posterity ; that he had been instrumental in diffusing Consternation and Terror through the Land, obstructing Commerce, giving a Shock to the public Credit, in the Depredation and Ruin of his Country ; and ought to consider himself as an Accessary to innumerable private Oppressions and Murders : His Lordship added, with a sensible Concern, *Yea, and murders of the Innocent too !* The whole of this Charge he readily admitted, and frequently with Tears, and offering up short fervent Petitions to God for Mercy.

But when Mr. Foster mentioned to him the Consequences of the Rebellion, that its natural Tendency was to the utter Subversion of our excellent free Constitution, to extirpate

extirpate our Holy Religion, and introduce the monstrous Superstitions and Cruelties of Popery, and the unbounded Mischiefs of Arbitrary Power: ----- Here he at first hesitated, and did not seem to have so clear a Conviction as Mr. *Foster* thought was necessary to render his Repentance complete. He told him, that he had considered this as a Thing *possible*, or, at most, as a remotely probable Consequence, but had not looked upon it as so closely connected with the Success of the Rebellion, as was generally imagined. That, as far as he could learn from all the Conversations he had with the Pretender's Son, and all the Knowledge he could gain of his Sentiments, he was not a Person that had a real Concern for any outward Profession of Religion; he thought therefore, that to introduce Popery, he would not run the Risque of defeating his main Design; that the Experience, which his pretended Family had had of the ill Effects of making any violent Attacks upon the Constitution and Liberties of this Country, would make him cautious and deliberate; or hoped, that the generous invincible Spirit of *British* Liberty would render all such Attempts unsuccessful: For that he himself was never, in the utmost Heat of his Rebellion, a Well-wisher to tyrannical Power and Popery, which last he could never embrace, without

without entirely renouncing his Understanding as a Man.

To which Mr. *Foster* answered, that he was sorry to find his Lordship had been imposed upon by such vain and fallacious Reasoning ; that if what he had said of the *Son* was really true, yet the *Father*, whose spurious Claim he came to assert, was, by all Accounts, an inflexible Biggot to the *Romish* Superstition ; that it could not be imagin'd, but that the young Pretender also, having been chiefly educated at *Rome*, thought himself under the strongest Obligations to promote the same Cause, that the Manifesto he had published was in the same Strain with the Declaration of King *James* II, *viz.* that he intended to allow to all his Subjects free Liberty of Conscience, which, the Protestant People of *England* plainly saw, was intended to open Popish Mass-Houses, and, under the Colour of this Indulgence to bring in a Swarm of Priests to corrupt and poison the Land, that without doubt, the Courts of *France* and *Spain* would never have attempted to support this Usurpation, without having directly stipulated in favour of Popery, and for the Extirpation of the Protestant Religion, the great Support of *British* Liberty ; that if, through Pusillanimity and Consternation of the People, (who, by collecting the 50th Part of their

their Force, were able to have trampled down the Rebels under their Feet, and to have extinguished every Spark of this unnatural Conspiracy) they should have come into Possession of present Power; yet it could not be imagined, but that the King, (who was a great Prince in Virtue of his foreign Dominions, and who would be supported by the Protestant States of *Europe*, and, in all Probability, by the House of *Austria* too, in order to preserve a just Balance, and restrain the exorbitant Power of *France*) must make long and vigorous Efforts to recover his legal Right; that the Pretender's Government could therefore never be establish'd, without a *French* Standing Army to insult and awe the Nation: Which would only be granted upon Condition of our making a hasty and inglorious Peace, betraying the most important and valuable Parts of our Commerce, and seems to render the Sacrifice of our Religion and Liberties, not only highly probable, but absolutely inevitable.

This was the Substance of the Conversation between Lord *Kilmarnock* and Mr. *Foster* upon this Head; in the Close of which my Lord declared, That he saw these Consequences in a quite different Light from what they had ever appeared to him in before, and sincerely lamented his having any Hand in entailing such Evils upon his Country.

try. And when Mr. *Foster* told him, That he supposed he had never allowed himself to enter deeply and seriously into the Subject; my Lord said, That in Truth, he was not very fond of thinking much about it, but rather inclined to flatter and delude himself.

When Mr. *Foster* asked him, what could be his Motive to engage thus in the Rebellion against his Conscience, in Defiance of God, and in Violation of Sacred Oaths, and, consequently, in Contempt of all Laws Divine and Human, all Ties of Justice and Honour? My Lord answered, That the true Root of all was his careless and dissolute Life, by which he had reduced himself to great and perplexing Difficulties; that the Exigency of his Affairs was in particular very pressing at the Time of the Rebellion; and that, besides the general Hope he had of mending his Fortune by the Success of it, he was also tempted by another Prospect of retrieving his Circumstances, if he followed the Pretender's Standard. His Love of Vanity and Addictedness to Impurity and sensual Pleasure, he said, had not only brought Pollution and Guilt upon his Soul, but debased his *Reason*, and, for a Time, suspended the Exercise of his social Affections which were by Nature strong in him, and, in particular, the Love of his Country: So that

his

his Rebellion was a kind of desperate Scheme, proceeding originally from his Vices, to extricate himself from the Distress of his Circumstances.

Mr. Foster told him, that he hoped he was ready to acknowledge the Wisdom of Providence, in so settling the Train and Order of Things in the moral World, as that a Life of Levity and Extravagance, naturally led to the other most fatal Extreams. And this Persuasion would make him humble in his present Condition, and thoroughly resigned to the Will of Heaven.

My Lord himself went farther, and said, " That it was not only a wise and righteous, " but might, to him, be a good and mer- " ciful Providence; that he had often ac- " knowledged it to God as an unspeakable " Mercy to his Soul, that he did not fall " at the Battle of *Culloden*, quite unreflect- " ing and impenitent; that if the Rebellion " had been successful, he should have gone " on increasing his Guilt, and have had " many more Oppressions and Murders to " account for before God, and that it was " most likely, that he would have continued " to pursue his old Course of Guilt and In- " famy, without ever recollecting himself; " or entertaining any serious Thoughts of " Repentance." He said, that he was con- stantly endeavouring to work himself to greater

greater Penitence, and a more complete Temper of Resignation, as well knowing that from thence alone his true Comfort and rational Calmness of Mind could spring; and that he had often made use of these Words of Christ, *Father, if it be possible, let this Cup pass from me: Nevertheless not as I will, but as thou wilt;* ----- but had sometimes been check'd by this Thought, that it was a Mixture of Profaneness with Piety, for him who had been so great a Sinner, and deserved Death, to address himself to God in the same Language with his blessed Saviour, which was perfectly innocent.

Besides impressing upon his Mind a deep Sense of his public Guilt, Mr. *Foster* urged him to a sincere Recollection of all his more private Vices: And told him, That he should not endeavour to excuse and palliate, but represent them to his Mind with all their Aggravations; that the great Busines of the short Time of Life, which seemed at present to be allotted to him, should be to soften and humble his Soul, and to make his Sorrow and Repentance for his Sins more deep and lively, and acquire a Disposition of Mind, alienated as much as possible from the Love and Relish of his former Impurities; that without this he could have nothing to recommend him to God's Mercy, nor any well-grounded hope of it; and it would

would be impossible for him to enjoy the Spiritual and sublime Happiness of Heaven, even if he supposed that he might be admitted to reside in Heaven; that the most effectual Method he could take to get a strong Detestation of, and Aversion to Sin, was to reflect frequently on the Malignity, Deformity, and Horror of it in itself, as a Stain to his Reason, and the most ignominious Depression of his Nature, as perverting that wise and beautiful Order which God had established in the Creation, and destroying that Perfection and Happiness among reasonable Beings, for which he originally formed them; as a Contrariety to his pure and spotless Excellence, an Affront to his supreme Authority, a Contempt of all his Promises of Mercy to the Penitent and Ingratitude against the best of Beings, to whom he was under the highest Obligations, and whose Goodness is unmeasurable and infinite.

After some more Discourse of the like kind, my Lord desired Mr. *Foster* would administer the Sacrament of the Lord's Supper to him, which at first he declined, without absolutely refusing it. His Reason was that he did not choose to do it, till he had Authority from General *Williamson* to tell him, that there remained no Hope of his Life. Then he thought he should

should have clearer Evidence if he still continued ingenuous in his Temper, if his Confessions and Repentance were sincere; and he consented at last only upon Condition, that my Lord would allow Mr. *Fowler*, the Gentleman-Goaler of the Tower to be present, and renew his Acknowledgments before him.

My Lord *Kilmarnock* made no Objection to this; and the Questions Mr. *Foster* proposed to him, together with his Answers, were in substance as follows:

Do you acknowledge, with deep Penitence and Contrition, the Guilt of the late unprovoked, unnatural and wicked Rebellion in which you engaged; the Share you had, by being involved in it, in the Oppressions and Murders of your Fellow Subjects, and the Desolation and Spoil of your native Country; your great Guilt in rebelling against your *just* and *lawful* King, and against a mild and gracious Government?
I do.

Are you ready to declare, that it is your stedfast Resolution to persist in this humble Confession to the last, and to pray for the Prosperity of King *George*, the Establishment of his Royal House, and the Welfare and Peace of your Country, with your dying Breath? *I readily declare this to be my steady Purpose.*

Do

Do you also, with Shame and Humiliation before God, acknowledge the Irregularities and Excesses of your private Life; and will you endeavour to form your Mind to deeper and deeper Repentance for both your publick and more personal Crimes? *This is my Resolution; which I will adhere by the Help of God.*

Be pleased to declare, that you expect no benefit at all from receiving the Sacrament, your Retmorse and Penitence be not sincere. *I do not think, that it will be of any service to me.*

In the last Place, Mr. Foster desired the Earl of Kilmarnock to declare, what of his own Accord he had mentioned to him before. That he would consider himself, in his Act of receiving the Sacrament under his present critical and melancholly Circumstances, as making an implicit Appeal to God; that he expected no Mercy from him, his Confessions were feigned and hypocritical; and that he looked upon the Death of Christ (which he was then solemnly to commemorate as a Ratification of God's covenant of Mercy to unfeigned humble penitents; and *to them alone*) as both a strong Encouragement and Motive to him, to endeavour to strengthen and perfect his Repentance. *I consider the whole of this in*

the Light, in which it has now been represented.

Mr. Foster adds, that all the Confession of this unfortunate Lord appeared to him to be free and ingenuous: He never scrupled the Questions that were asked him, nor took the least Time to meditate and prepare an Answer. His Confessions, likewise, were perfectly consistent and uniform and never varied as to the general Substance and in no other Circumstance than this which will be thought perhaps to redound to his Honour, that he continued to the last recollecting and searching himself, and declaring particular Incidents as they occurred to him, which tended, upon the whole not to the Extenuation, but to the Heightening of his Crime. And a few Days before his Death, he said, that he thought he should rather prefer the speedy Execution of the Sentence, which was justly passed upon him, than a longer Continuance in Life, he was sure that he should be again entangled by the Snares and Temptations to which he had formerly yielded: What would really be the Event, if he was let loose among the Gaieties and Pleasures of Life, he did not certainly know, and somewhat dreaded; but in the Declaration he had made, he thought he found himself clear.

Heav

Heavy Charges of Inhumanity and Cruelty, Mr. *Foster* told him, were spread among the People concerning him; and by many believed. He desired him therefore to be honest and free in clearing his Conscience of such a Load of most unnatural Guilt, by answering to the following Interrogations, which included in them the Substance of these Charges.

Here are subjoined, for the Perusal of the Public, the Questions which Mr. *Foster* proposed, and afterwards transcribed from a Paper written before he went to the Tower, and Lord *Kilmarnock*'s distinct Reply to each.

Was your Lordship present in the Pretender's Council at *Inverness*, or any other Place, before the Battle of *Culloden*, where it was proposed to destroy the Prisoners taken by the Rebels?

I can most sincerely and freely Answer, No.

Was you ever present in Council where this was proposed? *No.*

Did you ever move for such an Order? *No.*

Did you ever sign such an Order? *No.*

Did you ever carry an Order of this kind to the *French General Stapleton*? Did you, in his Presence, approve of such an Order? Did you at any Time, hearing it had been communicated to him, encourage and ex-

cite him to the Execution of it. To all which my Lord answered in the same Manner, No.

Did you ever know, or hear, that such a Thing, or an Order to give no Quarter, was debated, or agreed to, or signed in the Rebel Army, till you was taken by the King's Forces, and a Prisoner at *Inverness*? Or do you know yourself guilty of any Cruelties, by you authorised, or committed, against the King's Soldiers, or Subjects taken Prisoners by the Rebels? The Answer to both these Questions was the same as before.

As to what passed in the Church of *St. Ninias*, he told Mr. *Foster*, that he knew nothing at all of it, till, upon the Retreat of the Rebel Army, he was at some Distance from *Stirling*, where he had been confined to his Bed by a Fever; that the first Notice he had of it, was the Noise of blowing up the Church, of which he could never get any but an indistinct and confused Account; that it was represented by the Rebels as accidental; but concerning this he could certainly say nothing, only as to himself he solemnly declared, that he had no Knowledge before-hand of, nor any Concurrence in a design'd Act of Cruelty. Mr. *Foster* told him however, that he was charged with an instance of Barbarity to the Prisoners confined

fined in the Church at *Inverness*. And the Account which he gave of the Fact, is as follows: That there were Orders issued by the Pretender's Son, to strip them of their Cloathing for the Use of some of the Highland Rebels; that the Warrant for executing this Order was sent to him, that he did not enter the Church in Person, but committed the Execution of it to an inferior Officer; that the Prisoners, at first, refused to submit, upon which there was a second Order, and their Cloaths were taken from them; but that in the mean Time, the Person stiled the *French Ambassador*, represented to him, that this was an Outrage, which he scarce thought justifiable by the Law of Nations, and the Rules of War; he therefore, while the Cloaths lay in Heaps, with proper Centinels over them, in the Streets of *Inverness*, went up to the Pretender's Son, and represented the Matter in the Light in which the *French Ambassador* had stated it, and according to what were his own Sentiments likewise; upon which, as it was feared that such Usage might make an ill Impression upon the Minds of the People, the Cloaths were again restored; and this, he averred to Mr. *Foster*, was the whole of the Truth, as far as it ever fell under his Knowledge.

Mr. *Foster* says for his own Part he must do the unhappy Criminal the Justice to own, that he never appeared, during the Course of his Attendance upon him, to be of any other than a soft benevolent Disposition. His Behaviour was always remarkably mild and temperate. He could discern, he says, no Resentment, no Disturbance or Agitation in him. But indeed he feared this (as Persons in his melancholy Circumstances are generally apt to think, that they ought to have the Preference in Cases of Reprieve or Pardon) when he was first informed of the Earl of *Cromertie's* Reprieve, and therefore, in the Morning before he waited on him, he prepared himself to quiet and mollify his Mind. But one of the first Things that my Lord said to him was, that he was extremely glad that the King's Mercy had been shewn to Lord *Cromertie*.

Mr. *Foster* said, he hoped his Lordship did not think he had any Injustice done to him? His Answer was, not the least. I have pleaded Guilty, said he, I entirely acquiesce in the Justice of my Sentence, and if Mercy be extended to another, I can have no Reason to complain, when nothing but Justice is done to me. I do not believe, continued his Lordship, that my not being reprieved is owing to any Defect of Clemency in the King, who, by all Accounts

I ever

must ever received, is a very merciful Prince; or that it springs from any particular Re-
sentment or Prejudice against me, either in
his Majesty, or in the Duke; but from
some Distinction that they thought there
was in the Circumstances of Lord *Crom-
mertie's* Guilt and mine, or else from the
public Demand for Justice, which made it
unfit that two out of three should be re-
prieved. From this Way of thinking and
discoursing, he never, Mr. *Foster* says to his
Knowledge, varied to the last.

That Reverend Gentleman here adds another, and, as he thinks, a great and unquestionable Instance of Lord *Kilmarnock's* Ingenuity. He had been charged, and he imagined with a just Foundation, with having uttered a Falshood, when he said in his Speech at the Bar of the House of Lords, that *it was very easy for him to have escaped*. This he still thought was true upon the Rebel Army's *first giving Way*, as the greatest Part of that Body actually did escape, with whom he was joined. But after he had separated himself from them, and was advanced any considerable Way towards the King's Troops, he believed that his Escape was not practicable. But tho' he hoped that this would clear him from the Imputation of having wilfully prevaricated in the Instance already mentioned; yet he owned,

owned, that in another, induced by the Low and strong Desire of Life, he had grossly falsified. The Case as he represented it to *Mr. Foster*, was thus; ---- He had asserted in his Speech, that tho' he could have escaped, he did not choose it, because the Consequences, in an Instant, appeared to him more terrible, more shocking, than the most painful or ignominious Death: And therefore he chose to surrender and commit himself to the King's Mercy, rather than to throw himself into the Hands of a foreign Power, the natural Enemy to his Country; with whom to have Merit, he must persist in continued Acts of Violence to his Principles, and of Treason and Rebellion against his King and Country: But the real Truth was, That he had no Intention at all to surrender, and that his only View was to facilitate his Escape; for he thought the Body towards which he advanced, were not the *King's*, but *Fitz-James's* Horse, and that if he could reach them, by mounting behind one of the *Dragoons*, his Escape would have been more certain, than, as he was then on Foot, it appeared to him in his present Situation to be; tho' he did not find his Strength or Spirits in any considerable Degree impair'd. This, he thought, as it related to his inward Intention only, could not be discovered but by his own Confession, nor known to any but

but God and his own Conscience. But he was willing to unburden his Soul, and purge it of its secret Guilt; and therefore pressed it upon him (Mr. *Foster*) in a particular Manner, and especially on the very Day before he was executed, not to forget to publish to the World this Circumstance, because, as he had solemnly uttered before so august an Assembly as the House of Lords, a direct and known Untruth, he thought, if he should dye without a Retraction of it, and a publick Acknowledgment of his Offence, he must be considered as one, who presumed to appear before the Tribunal of God with a Lye in his Mouth.

In this Place Mr. *Foster* says, he could not help thinking himself bound in Justice to Lady *Kilmarnock* to declare (and he thought it would be more proper to do it here than any where else, because it would probably find more Credit, after such a striking Instance of the late Lord *Kilmarnock*'s conscientious Regard to Truth) that my Lord had said to him, that, tho' his Lady was bred in different Sentiments, he thought her now more inclined to *Whiggish* than *Jacobite* Principles. And the Reverend and Honourable Mr. *Home*, and Mr. *Ross* his Lordship's Sollicitor, desired Mr. *Foster* to inform the World of another Thing, which he had expressly mentioned to them, viz.

that instead of exciting him to, she had dissuaded him from entering into the late wicked and horrid Rebellion.

As the Publick will, in all Probability, be curious to know what were Lord *Kilmarnock's* Sentiments concerning Death, and the particular Kind of Death, which he expected in pursuance of his Sentence, would be inflicted on him ; Mr. *Foster* relates the Substance of the Discourses that passed between them, upon these great, and, to the Generality of the World, most terrifying Subjects.

On *Monday* the 11th of *August*, General *Williamson* desired Mr. *Foster*, in the gentlest Terms he could use, to let my Lord know, that he had received the Order for his and Lord *Balmerino's* Execution. Mr. *Foster* at first declined the ungrateful Office, and told the General, that he was so shocked at it, that he could not think of delivering the Message himself, but would endeavour to prepare the unfortunate Lord, by divesting him as far as he could of all Hope of Life, for his informing him of it. And he intended to have gone no farther, but finding my Lord in a resigned and calm Temper, Mr. *Foster* told him, as General *Williamson* was coming up, that he would see the vast Importance, nay, the absolute Necessity of attending seriously to what he had been saying about

about his diligent and constant Preparation for Death, by what, as he said, he apprehended he would soon hear.

Lord *Kilmarnock* immediately asked him, if the Warrant was come down for his Execution? The other told him it was, and that the Day fixed was the *Monday* following. And as, upon this, the General immediately came into the Room, Mr. *Foster* acquainted him, that Lord *Kilmarnock* knew already what he intended to inform him of.

My Lord received this News with the outward Behaviour of a Man, that knew and felt the Importance of the Scene of Death, but without any Marks of Disorder, without any unbecoming Anxiousness or Terror. And to establish and support him in his present Quietude of Mind, Mr. *Foster* told him, " That all Mankind were really " under Sentence of Death, tho' they knew " not the *Manner*, or *precise Time* of its " being executed ; it might be to any *One*, " as soon, or sooner, than his own ; that " they not expecting it, nor having such " timely and certain Notice of it, might " die wholly unguarded and unprepared ; " while he had Warning, and the most a- " wakening Motives to fit himself, in the " best Manner possible, for this grand and " decisive Event."

My Lord said, he had never been a *Libertine* in *Principle*, during all the Time that he was most inconsiderate and licentious in his *Conduct*; but had always firmly believed the great *Truths* of God's *Being* and *Providence*, and a future *State* of *Rewards* and *Punishments* for *Virtue* and *Vice*, and that he had not been involved in the *fashionable Scepticism* of the *Times*, with respect to *Christianity*, that he was therefore naturally concerned, and chiefly concerned about the *Consequences* of *Death*, in comparison of which he thought the *Thing* itself a *Trifle*, that as to the particular *Manner* of his *Death*, he thought he had no great *Reason* to be *terrified*, for that the *Stroke* appeared to be scarce so much as the *Pain* of *drawing a Tooth*, or the *first Shock* of the *Cold Bath* upon a *weak and fearful Temper*.

When General *Williamson*, upon the *Saturday* preceding his *Execution*, gave him a minute *Detail* of all the *Circumstances* of *Solemnity* and outward *Terror* that would accompany it; he heard it with as much *Shew* of *Composure*, as a *Man* of a *tender compassionate Spirit* would read the *Account* of it, in an *Instance* where he was not personally concerned. He was told, That on *Monday* about *Ten* in the *Morning*, the *Sheriffs* would come to demand the *Prisoners*,
who

who would be delivered to them at the Gate of the *Tower*; that from thence, if their Lordships thought proper, they should walk on foot to the House appointed on *Tower-Hill* for their Reception, where the Rooms would be hung with Black, to make the more decent and solemn Appearance, and that the Scaffold also would be covered with black Cloth; that his Lordship might repose and prepare himself, in the Room fitted up for him, as long as he thought it convenient, remembering only, that the Warrant for the Execution was limited to, and consequently expired at One o'Clock; that because of a Complaint made by Lord *Kennure*, that the Block was too low, it was ordered to be raised to the Height of two Feet; that it might be the more firmly fix'd, Props would be placed directly under it, that the Certainty or Decency of the Execution might not be obstructed by any Concussion, or sudden Jirk of the Body. All this Lord *Kilmarnock*, without the least visible Emotion, expressed his Satisfaction in: But when the General told him, that two mourning Hearses would be provided, and placed close by the Scaffold, that when the Head was struck off, the Coffins might be soon taken out to receive the Bodies, he said, that he thought it would be better for the Coffins to be upon the Scaffold, for

by that Means the Bodies would be still sooner removed out of Sight. And being farther informed, that an Executioner was provided who would perform his Work dexterously, and that he was a very good Sort of Man, my Lord answered, General, this is one of the worst Circumstances that you could have mentioned ; I cannot thoroughly like, for such Business, your good Sort of Men : For one of that Character, I apprehend, must be a tender-hearted and compassionate Man, and a rougher and less sensible Temper might be fitter to be employ'd. After this, Lord *Kilmarnock* desired, That four Persons might be appointed to receive the Head, when it was severed from the Body, in a red Cloth, that it might not, as he had been informed was the Case in some former Executions, roll about the Scaffold, and be thereby mangled and disfigured : For that tho' this was, in Comparison, but a small Circumstance, he was not willing that his Body should appear with any unnecessary Indecency, after the just Sentence of the Law was satisfied.

Mr. *Foster* could not perceive, but that he talked of all these Particulars with Ease and Freedom, tho' the Relation, he remembers, he says, made him tremble, chiefly because he apprehended that they would produce

duce in my Lord some Perturbation and
Distress of Mind.

Mr. *Foster* thinks it proper to add, that when my Lord was told, that his Head should be held up to the Multitude, and public Proclamation made, that, that was the Head of a Traitor; he replied, That as he knew to be usual on all such Occasions, and spoke of it as a Thing of no Significancy in the Affair at all, and did not in the least affect him. And Mr. *Foster* says, he never heard, either before or after he was delivered into the Custody of the Sheriffs, that he intimated the least Concern to have this Part of the dismal Ceremony dispensed with: [*and therefore it has greatly surprized the People that it should be omitted, and has occasioned some odd Conjectures.*] Mr. *Lord* indeed, in his Account of the Execution of the two Lords, says, it was at my Lord's particular Request, and that the Law don't require it: But the first Gentleman (Mr. *Foster*) says, that all Lord *Kilmarnock*'s friends, who attended him in his last Moments, are ready to concur with him in making the same Declaration, that they never expected it would have been so, and wondered at it.

After the Conversation above-mentioned, between Lord *Kilmarnock* and General *Wilkinson*, Mr. *Foster* thought it proper to advise

advise him to think frequently on the outward *Apparatus* and *Formalities* that would attend his Death, that these Circumstances striking to Sense, might impress his Mind with Horror, and disarm him of Part of his Resolution, if he was not by Reflection thoroughly prepared for the Scene; but if they were habituated to the Mind, they would in a great Measure, lose their Influence, and be considered as no more than the *Appendage* of a Subject vastly more great, and worth his Contemplation. And he declared, on the Morning of his Execution, that he had taken this Method with himself, and hoped that these Things would discompose him for but little, nor create any Weakness, or Indecency in his Behaviour, he allowed with Mr. *Foster* that they were nothing so terrible in themselves, as the dying after a dispiriting and lingering Distemper, in a silent melancholy darkened Room, with languid and exhausted Spirits, and his Friends standing round him, with lively Marks of Sorrow and Anguish in their Countenances, expostulating and deploring his Fate.

To come to the Conclusion of this dismal Scene, his Behaviour on the Day of his Execution, Mr. *Foster* attended him in the Morning about Eight o'Clock, and found him in a most calm and happy Temper, and without any Disturbance or Confusion in his still Mind.

Mind, and with apparent Marks of Ease and Serenity in his Aspect. And that the World may the better judge of the Propriety of his Behaviour from that Time to the Time of his Death, Mr. *Foster* says, he will first declare what his Lordship's professed Sentiments were concerning himself, and the Manner in which he chose to die; and then briefly point out what, in his Opinion, was the utmost Decency of Conduct in one in his Circumstances, under the Impression of such Sentiments and Principles.

Mr. *Foster* observed to him, that to affect to brave Death, when he justly suffered for his Crimes, could have no Shew of a true Decorum in it; and that to manifest no Concern at all, where the Consequence was so awful, and the Stake infinite, was, in some Degree unbecoming even in the best Men. My Lord assented to what Mr. *Foster* said, and told him farther, That for a Man who had led a dissolute Life, and yet believed the Consequences of Death, to put on such an Air of Daringness and absolute Intrepidity, must argue him either to be very stupid or very impious; and said farther, that though he entirely acquiesced in the Justice of his Sentence, and thought it his Duty wholly to resign himself to the wise and equal Disposals of Providence, he had still this Clog upon his Mind, that he could

not

not be sure his Repentance was sincere, because it had never been tried. Mr. *Foster* answered him, that if he aimed at Certainty in this grand Point, he might unnecessarily perplex and distress his Mind, because, for the very Reason which he had assigned, that is to say, for Want of proper Opportunities to try and prove the Truth of his Repentance, such a Certainty was not attainable by any Person in his Condition.

At my Lord's Desire, Mr. *Foster* made a short Prayer with him, soon after which General *Williamson* came to inform him, that the Sheriffs waited for the Prisoners: At the receiving this awful Summons to go to Death, he was not in the least startled, but said calmly and gracefully, *General, I am ready, I'll follow you.* At the Foot of the Stairs he met and embraced Lord *Balmerino*, as before-mentioned in the Account of that Lord. From thence he walked with the usual Formalities to the Tower-Gate, and, after being delivered into the Custody of the Sheriffs, went to the House provided for the Purpose, the late *Transport-Office*, on *Tower-Hill*, near the Scaffold.

My Lord *Kilmarnock* spent his Retirement here in a Manner suitable to his unhappy Circumstances, Mr. *Foster* frequently comforting him with seasonable Exhortations. His Lordship in particular recommended it

to

to the Sheriffs Observance, " That he declared himself a Protestant, and thoroughly satisfied with the Legality of his Majesty King George's Title to the Throne of these Realms; that he himself was educated in these Principles, and had constantly adhered to them, till after the breaking out of the Rebellion, which he heartily repented of ever engaging in, and that he prayed for the Good of his Country, and for the Continuance of the Crown in his Majesty and his Descendants till the latest Posterity."

The Time being now pretty far advanced (as was hinted to his Lordship by the Sheriffs Desire) Mr. *Foster* told him, that after having taken a few Minutes to compose himself, he thought it would be proper to allow him to pray with him, and then proceed to the Scaffold. After this Mr. *Foster* addressed himself to the Spectators of this mournful Scene, to join with him fervently in this last solemn Office, and in recommending the Soul of an unhappy Person, who gave so many lively Marks of his sincere Penitence for the Crime of his Rebellion to the Mercy of God, with which Request they all readily comply'd.

Lord Kilmarnock had often protested, that he would, in his *last Moments*, pray for his King and Country, therefore Mr. *Foster*, towards

towards the Conclusion of his Prayer for him, offered up the following Petitions to that Purpose; which my Lord had before, in the Tower, expressed his entire Satisfaction in, *And we now from our Hearts, and at the particular Desire of thy Servant, upon whose Account especially we presume at this Time to address thy Throne, and offer up our united fervent Prayers, that thou wouldst preserve, bless, and honour our only rightful Sovereign Lord King GEORGE; that thou wouldst crown him with Glory and Renown; that in his Reign there may be abundance of Peace; that his Royal Progeny may long sit, with Lustre and Dignity, upon the Throne of these Kingdoms, undisturbed by Rebellions, and the Tumults of seditious and violent Men; and that our holy Religion, and inestimable British Liberties, may be transmitted down secure and sacred to our Posterity, even to the latest Generations.*

After Prayer was ended, Lord Kilmarnock took his last Farewel of the Gentlemen who attended him in a very affectionate Manner, and went out of the Room, preceded by the Sheriffs, and accompanied by his Friends. As he was stepping into the Scaffold, notwithstanding the great Pains he had taken to Familiarize the outward *Appartus* of Death to his Mind, Nature still recurred upon him; so that be-

ing struck with such a Variety of dreadful Objects at once, the Multitude, the Block, his Coffin, the Executioner, the Instrument of Death, he turned about, and said to Mr. Home. Home, *this is terrible*. This Expression, so suitable to the awful Occasion, must, to all who know the human Heart, appear to be nothing else than the Language of Nature, and was far from being a Mark of unmanly Fear; being pronounced with a steady Countenance, and Firmness of Voice, Indications of a Mind unbroken and not disconcerted. His whole Behaviour was so humble and resigned, that not only his Friends, but every Spectator, was deeply moved; even the Executioner burst into Tears, and was obliged to use artificial Spirits to support and strengthen him.

Mr. Foster, having talked with his Lordship a considerabl Time to support him in his Penitence and Resignation, embraced him, and then left him in the same calm Disposition, quitting the Scaffold some Minutes before his Execution.

The Executioner being introduced to him, asked his Lordship Forgiveness for the painful Office assignd him; which he very readily did and gave him a Purse of Gold, desiring him to have Courage, and acquainted him that the Signal for the Stroke should be the dropping a Handkerchief.

Specta-

Spectators at a Distance, not knowing the true Cause of the Stroke's being retarded, ascribed it to Pusillanimity : But, in reality, that Delay was owing only to a few trivial Circumstances which it is necessary to mention in Vindication of the Behaviour of that noble Penitent, which was uniformly conducted by the Rules of just Decorum, from all Imputation of unmanly Fear in the critical Moment. My Lord's Hair having been dressed in a Bag it took some Time to undo it, and put it up in his Cap. The Tucking his Shirt under the Waistcoat, that it might not obstruct the Blow, was the Occasion of some farther small Delay. But as soon as these Preliminaries were adjusted, his Lordship took out a Paper containing the Heads of his Devotion, went forward to his last Stage, and decently kneeled down at the Block. Whether it was to support himself, or as a more convenient Posture for Devotion, he happened to lay his Hands with his Head upon the Block ; which the Executioner observing prayed his Lordship to let his Hands fall down, least they should be mangled, or break the Blow. Then he was told, that the Neck of his Waistcoat was in the Way ; upon which he rose up, and with the Help of one of his Friends, (Mr. *Walkinshaw of Scotston*) had it taken off. This done, and the Neck made bare to the Shoulders,

Shoulders, he again kneeled down as before. And what sufficiently shews, that he enjoyed full Presence of Mind to the last, Mr. *Home's* Servant, who held the Cloth to receive the Head, heard him say to the Executioner, that, in two Minutes, he would give the Signal. That dreadful Interval, to his Friends, who were then upon the Rack, appeared much longer, but those who measured found it just about two Minutes. This Time he spent in most fervent Devotion, as appeared by the Motion of his Hands and now and then of his Head; having then fixed his Neck on the Block, he gave the Signal, his Body remained without the least Motion, except what was given it by the Stroke of Death, which he received full, and was thereby happily eased of all his Pain.

The Head was received into a Piece of Scarlet Cloth, and with the Body deposited in a Coffin on which was the following Inscription, *Wilhelmus Dominus de Kilmar-nock Decollatus. 18 die Augosti, 1746. Ætatis suæ 42.*

Thus deservedly fell, tho' humble and relenting, the late Earl of *Kilmarnock*, a Sacrifice to the Justice of his Country. His Person was tall and graceful, his Countenance mild, and his Complexion pale, and he had Abilities, if they had been properly applied, which might have rendered him capable

pale of bringing an Increase of Honour to his Family instead of Ruin and Disgrace.

The following Paper was delivered by the Earl of KILMARNOCK to Mr. FOSTER, the Day before his Execution, Sunday, August 17, 1746.

AS it would be a vain Attempt in me to speak distinctly to that great Concourse of People, who will probably be present at my Execution, I chuse to leave this behind me, as my last solemn Declaration, appealing for my Integrity, to God, who knows my Heart.

I bless God, I have little Fear of temporal Death, though attended with many outward Circumstances of Terror: The greatest Sting I feel in Death is, that I have deserved it.

Lord Balmerino, my Fellow-Sufferer, to do him Justice, dies in a professed Adherence to the mistaken Principles he had imbibed from his Cradle. But I engaged in the Rebellion, in Opposition to my own Principles and to those of my Family, in Contradiction to the whole Tenor of my Conduct, till within these few Months, that I was wickedly induced to renounce my Allegiance, which ever before I had preserved and held inviolable. I am in little Pain for

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the Reflections which the inconsiderate or prejudiced Part of my Countrymen (if there are any such whom my suffering the just Sentence of the Law has not mollified) may cast upon me for this Confession. The Wise, or more Ingenuous, will, I hope, approve my Conduct, and allow with me, That, next to doing Right is, to have the Courage and Integrity to own, that I have done Wrong.

Groundless Accusations of Cruelty have been raised and propagated concerning me, and Charges, spread among the People, of my having sollicited for, nay, actually signed Orders of general savage Destruction, seldom issued among the most barbarous Nations, and which my Soul abhors. And, that the general Temper of my Mind was ever averse from, and shock'd at gross Instances of Inhumanity, I appeal to all my Friends and Acquaintance who have known me most intimately, and even to those Prisoners of the King's Troops to whom I had Access, and whom I ever had it in my Power to relieve; I appeal in particular, for my Justification as to this justly detested and horrid Crime of Cruelty, to Captain-Master of *Ross*, Captain Lieutenant *Rexon*, and Lieutenant *George Cuming* of *Alter*.

These Gentlemen will, I am persuaded, as far as relates to themselves, and as far as

has fallen within their Knowlege or credible Information, do me Justice ; and then surely, my Countrymen will not load a Person, already too guilty and unfortunate, with undeserved Infamy, which may not only fix itself on his own Character, but reflect Dishonour on his Family.

I have no more to say, but that I am persuaded, if Reasons of State, and the Demands of public Justice had permitted his Majesty to follow the Dictates of his own Royal Heart, my Sentence might have been mitigated. Had it pleased God to prolong my Life, the Remainder of it should have been faithfully employed in the Service of my justly offended Sovereign, and in constant Endeavours to wipe away the very Remembrance of my Crime.

I now, with my dying Breath, beseech Almighty God, to bless my only rightful Sovereign King GEORGE, and preserve him from the Attempts of public and private Enemies. May his Majesty, and his illustrious Descendants be so guided, by the Divine Providence, as ever to govern with that Wisdom, and that Care, for the public Good, as will preserve to them the Love of their Subjects, and secure their Right to reign over a free and happy People to the latest Posterity.

*The following is an Extract of a LETTER
of Lord KILMARNOCK to his Son.*

Dear BOYDE, Dated, Tower, Aug. 17, 1746.

— I must take this Way to bid you farewell, and I pray God may for ever bless you and guide you in this World, and bring you to a happy Immortality in the World to come. I must likewise give you my last Advice. Seek God in your Youth, and when you are old he will not depart from you. Be at Pains to acquire good Habits now, that they may grow up and become strong in you. Love Mankind, and do Justice to all Men. Do Good to as many as you can, and neither shut your Ears nor your Purse to those in Distress, whom it is in your Power to relieve. Believe me, you will find more Joy in one Beneficent Action, and in your cool Mornings you will be more happy with the Reflection of having made any one Person so, who without your Assistance would have been miserable, than in the Enjoyments of all the Pleasure of Sense (which pall in the Using) and of all the Pomp and gaudy Show of the World. Live within your Circumstances, by which Means you will have it in your Power to do Good to others. Above all Things, continue in your Loyalty

to his present Majesty and the Succession to the Crown, as by Law established. Look on that as the Basis of the civil and religious Liberty and Property of every Individual in the Nation. Prefer the Public Interest to your own, wherever they interfere. Love your Family and your Children, when you have any ; but never let your Regard for them drive you on the Rock I split upon, when on that Account I departed from my Principles, and brought the Guilt of Rebellion and civil and particular Desolation on my Head, for which I am now under the Sentence justly due to my Crime. Use all your Interest to get your Brother pardoned and brought home as soon as possible, that his Circumstances, and bad Influence of those he is among, may not induce him to accept of foreign Service, and lose him both to his Country and his Family. If Money can be found to support him, I wish you would advise him to go to *Geneva*, where his Principles of Religion and Liberty will be confirmed, and where he may stay till you see if a Pardon can be procured him. As soon as Commodore *Barnet* comes home, enquire for your Brother *Billie*, and take Care of him on my Account. I must again recommend your unhappy Mother to you. Comfort her, and take all the Care you can of your Brothers : And may God of his infinite

Mercy

Mercy preserve, guide, and conduct you and them through all the Vicissitudes of this Life, and after it bring you to the Habitations of the Just, and make you happy in the Enjoyment of himself to all Eternity.

My Lord Kilmarnock got the three following Petitions delivered. The First

To the KING's Most Sacred Majesty,

The humble Petition of WILLIAM Earl of Kilmarnock,

Sheweth,

TH E Petitioner having met with the Condemnation justly due to his Crime, presumes, throwing himself at your Majesty's Feet, to implore your Majesty's Royal Clemency, and, tho' very sensible that nothing can excuse or mitigate his Crime, hopes he may be considered in your Majesty's Eye, as an Object of Compassion and Pity.

His Family's constant Attachment to the Revolution Interest, and that of your illustrious House, his Father's Zeal and Activity in Support of both, when attacked by your late Royal Father's Enemies in 1715, his own appearing in Arms (tho' then but young) under his Father, the whole Tenor of his

Conduct since that Time, and the Sentiments of Duty and Loyalty in which he has educated his eldest Son, who now has the Honour of bearing your Majesty's Commission, tho' no Diminution of his Guilt, may yet let in a Presumption, that he has offended more from Rashness and the Designs of wicked and ill-disposed Persons, than from any Principle of Disaffection to your Majesty.

The Petitioner humbly begs Leave to acquaint your Majesty, that he influenced neither Tenant nor Follower of his to assist or abet the Rebellion; but, on the contrary, that between the Time of the Battle of *Preston*, and his unhappy Junction with the Rebels, he went to the Town of *Kilmarnock*, influenced its Inhabitants, as far as he could, and by their Means their neighbouring Boroughs to rise in Arms for your Majesty's Service, which had so good an Effect, that 200 Men of *Kilmarnock* appeared very soon in Arms, and remained so all the Winter at *Glasgow*, or other Places as they were ordered. And even in the Midst of his greatest Delusion, when in Arms against your Sacred Majesty and your Authority, it was the Petitioner's constant Care (as far as in his Power) to protect your faithful Subjects from Injury in their Persons or Estates. He extended his Care to such of your Majesty's

esty's Troops as had the Misfortune of falling into the Hands of the Rebels, both Officers and private Men, finding better Usage, and their Condition rendered more supportable thro' his Means, than it would otherwise have been ; as many of them can, and the Petitioner believes will, testify when called upon.

The Petitioner was not taken, but surrendered himself at the Battle of *Culloden*, having left those he was joined with, when they were got so far, that most, if not all of them escaped, except himself, who from thence turned down to the Ground where the Dragoons were drawn up at a considerable Distance, and this at a Time when he might easily have made his Escape, being near no Body, nor any in pursuit of him. He chose Submission as far preferable to Obstinacy in Rebellion. His first Principles revived in his Breast. He determined rather to run the Risque of an ignominious Death, as the Atonement of his Treason, than to recur to and become dependant upon a foreign Power, that Power especially being the natural Enemy of his Country, and your Majesty the Father of it.

Under these Circumstances, SIR, it is, that the unhappy Petitioner (more so from Remorse of having violated his Allegiance to your Majesty, than from the Sentence

he lies under) dares to approach your Throne, and implore your Royal Mercy, and which he hopes for, as he cannot reproach himself with any Guilt precedent to this fatal Breach of his Duty.

To His Royal Highness the PRINCE
of *W A L E S*.

*The humble Petition of WILLIAM Earl of
Kilmarnock,*

Sheweth,

THAT though the Petitioner met with the Condemnation justly due to his Crime, presumed to throw himself at his Majesty's Feet, and implore his Majesty's Royal Clemency; and, though very sensible that nothing can excuse or mitigate his Crime, hopes he may be considered by his Majesty as an Object of Compassion.

His Family's constant Attachment to the Revolution Interest, and that of your illustrious House; his Father's Zeal and Activity in support of both, when attacked by his late Majesty's Enemies in 1715; his own appearing in Arms (though then but young) under his Father; the whole Tenor of his Conduct since that Time; and the Sentiments of Duty and Loyalty in which he has educated

educated his Eldest Son, who now has the Honour of bearing his Majesty's Commission, though no Diminution of his Guilt, may yet let in a Presumption, that he has offended more from Rashness and the Designs of wicked and ill-disposed Persons, and other Causes, than from any Principles of Disaffection to his Majesty.

The Petitioner humbly begs Leave to acquaint your Royal Highness, That he influenced neither Tenant nor Follower of his to assist or abet the Rebellion. But on the contrary, That, between the Time of the Battle of *Preston*, and his unhappy Junction with the Rebels, he went to the Town of *Kilmarnock*, influenced the Inhabitants, as far as he could, and by their Means likewise influenced their neighbouring Boroughs, to rise in Arms for his Majesty's Service; which had so good an Effect, that 200 Men of *Kilmarnock* appeared very soon in Arms, and remained so all the Winter at *Glasgow*, or other Places, as they were ordered. And even in the Midst of his greatest Delusion, when in Arms against his sacred Majesty and his Authority, it was the Petitioner's constant Care (as far as in his Power) to protect his Majesty's faithful Subjects from Injury in their Persons or Estates. He extended his Care to such of his Majesty's Troops, as had the Misfortune of falling into the Hands of

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the Rebels ; both Officers and private Men finding better Usage, and their Condition rendered more supportable, thro' his Means, than it would otherwise have been ; as many of them can, and the Petitioner believes, will testify, when called upon.

The Petitioner was not taken, but surrendered himself at the Battle of *Culloden*, having left those he was joined with, when they were got so far, that most, if not all of them escaped, except himself ; who from thence turned down to the Ground where the Dragoons were drawn up at a considerable Distance ; and this at a Time when he might easily have made his Escape, being near no Body, nor any in pursuit of him. He chose Submission, as far preferable to *Obstinacy in Rebellion*. His first Principles revived in his Breast. He determined rather to run the Risque of an ignominious Death, as the Atonement of his Treason, than to recur to, and become dependant upon a foreign Power, the natural Enemy of his Country, and his Majesty the Father of it.

Your Petitioner therefore begs Leave, to implore your Royal Highness's Intercession with his Majesty in his Behalf, for a Life, which always has been, till this unhappy Interruption, and if spared, shall

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jesty, of your Royal Highness, and your
august House; and in the most fervent
Prayers for the Happiness and Prospe-
rity of your illustrious Family.

To his Royal Highness the D U K E.

*Petition of WILLIAM Earl of Kilmarnock,
Prisoner in the Tower of London, under
Sentence of Death,*

Humbly sheweth,

THAT your Petitioner is already, on his Acknowledgment, convicted of the greatest of all Crimes, that of High-Treason, by Rebellion against his most Sacred Majesty and his Country, and has received the Sentence of Death justly due.

Your Petitioner has heard your Royal Highness was informed, that he was guilty of other aggravating Crimes, which alone would render him an Object of Horror and Detestation to all good Men, tho' the Guilt of Rebellion had not been added to them, that of advising the putting to Death those were Prisoners before the Battle of *Culloden*; and advising or approving of the bloody and bar-
barous

barous Order for giving no Quarter to his Majesty's Troops at that Battle.

Your Petitioner begs Leave to assure your Royal Highness, that he never gave, or had any Opportunity to give such Advice. That he never was at a Council, while he was so unhappy as to be engaged in the Rebellion, except one at *Derby*; for which he appeals to any in or about *London*, who may know, if ever he was seen at one.

Cruelty was never a Part of your Petitioner's Character, either in the former Part of his Life, or during his Engagement with the Rebels; and many Prisoners, all he had access to, will testify that his Behaviour to, and Care of them, shewed a very different Disposition. If ever there was such a Proposal made, with respect to the Prisoners, your Petitioner must have fallen under the Imputation of it, by a Mistake of Names, he himself having never heard of it.

For the Order to give no Quarter your Petitioner likewise protests he never knew or heard of any such Thing, till he was some Days a Prisoner at *Inverness*; nor could he give Credit to the Report of it, till he was assured your Royal Highness had got the original Order, sign'd, *George Murray*. And the Petitioner presumes, that Order must have been given by the Person who sign'd it of himself; for all Orders that ever came

to your Petitioner's Hands, were sign'd by Mr. Soulevan.

Your Petitioner most humbly intreats your Royal Highness, out of your princely Justice and Compassion, for an unfortunate Man, already unhappy enough from his Consciousness of the Crime he is justly condemned for, to entertain no such Sentiments of him as would aggravate the Odium of his Memory, and add to the Guilt of his publick Offence, by private Injuries in the Conduct of it. And that your Royal Highness would be pleased to inform yourself of the Truth of what is above humbly represented, from those who may best know, and if it shall appear, or be presumeable, that your Royal Highness's Information has not been well ground-ed, or that any Mistake of Names has been the Cause of it; let no more be imputed to the Petitioner than he justly deserves. Let not his Character suffer for the Faults of others; and Cruelty and Inhumanity, without ground, be added to his public Crime of Rebellion.

And if your Royal Highness shall, upon farther Examination, find Reason to believe your Petitioner innocent of these malicious and detestable Sentiments, be humbly begs Leave to implore your Royal Highness's Intercession with his Majesty in his

his Behalf, for a Life which always has been, till this unhappy Interruption, and shall, in all that may remain of it, be spent in the Service of his Majesty, your Royal Highness, and your august House; and in the most fervent Prayers for the Happiness and Prosperity of your illustrious Family.



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